

ORDER OF THE MISSOURI BOARD OF PHARMACY
ISSUING JONATHAN P. EARLEY AN INTERN PHARMACIST LICENSE
SUBJECT TO PROBATION

Comes now the Missouri Board of Pharmacy ("Board") and issues its ORDER granting a PROBATED pharmacist Intern license, license number 2008003461, to Jonathan P. Earley (hereinafter "Earley" or "Respondent"), pursuant to the provisions of Section 620.149, RSMo. As set forth in Section 620.149, RSMo, Earley may submit a written request for a hearing to the Administrative Hearing Commission seeking a review of the Board's decision to issue a probated license to Earley. Such written request must be submitted to the Administrative Hearing Commission within thirty (30) days of issuance of this Order. The written request should be addressed to the Administrative Hearing Commission, P.O. Box 1557, Truman Building, Room 640, Jefferson City, Missouri 65102-1557. If no written request for review is received by the Administrative Hearing Commission within the thirty (30) day period, the right to seek review of the Board's decision shall be waived.

Should Earley file a written request for review of this Order, the terms and conditions of the Order shall remain in force and effect unless and/or until such time as the Administrative Hearing Commission issues an order contrary to this Order.

FINDINGS OF FACT

1. The Missouri Board of Pharmacy (hereinafter "Board") is an agency of the State of Missouri created and established pursuant to Section 338.110, RSMo, for the purpose of executing and enforcing provisions of Chapter 338, RSMo.

2. Based on information received by the Board, pursuant to Section 338.055, RSMo, the Board concluded Jonathan Earley engaged in conduct which would be grounds for disciplinary action by the Board and would also constitute grounds to deny Earley a pharmacist intern license.

3. Pursuant to the provisions of Section 620.149, RSMo, the Board hereby issues Intern license number 2008003461 to Jonathan Earley in lieu of denial of Earley's request for a license to practice as an intern pharmacist in Missouri. License number 2008003461 is issued subject to the terms and conditions set forth herein below.

4. At its December 2007 meeting, the Board reviewed Earley's request for licensure as a pharmacist intern following receipt of Earley's application for licensure as a pharmacist intern.

5. During this review, the Board ascertained that Earley had pled guilty in 2000 to operating a motor vehicle while impaired with alcohol and had pled guilty in 2007 to assault in the third degree, both of which are violations of Section 338.055.2(2), RSMo.

6. Based upon the findings of this review and Earley's conduct, the Board concluded that Earley engaged in conduct which would be grounds for disciplinary action by the Board or denial of a license pursuant to Section 338.055.2, RSMo.

CONCLUSIONS OF LAW

7. Earley's conduct as alleged above is cause for the Board to deny Earley a license to practice as an intern pharmacist pursuant to Section 338.055.1 and .2, RSMo, which states in pertinent parts:

1. The board may refuse to issue any certificate of registration or authority, permit or license required pursuant to this chapter for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his or her right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered his or her certificate of registration or authority, permit or license for any one or any combination of the following causes:

* * *

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated under this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed.

8. Section 620.149, RSMo, provides in pertinent part:

1. Whenever a board within the division of professional registration, including the division itself when so empowered, may refuse to issue a license for reasons which also serve as a basis for filing a complaint with the administrative hearing commission seeking disciplinary action against a holder of a license, the board, as an alternative to refusing to issue a

license, may, at its discretion, issue to an applicant a license subject to probation.

9. The Board hereby issues this ORDER in lieu of denial of Earley's request for a license to practice as an intern pharmacist in Missouri pursuant to Section 620.149, RSMo.

DISCIPLINARY ORDER

Based on the foregoing and in lieu of denying Jonathan P. Earley an Intern pharmacist license, the Board hereby issues Jonathan P. Earley intern pharmacist license number 2008003461 subject to PROBATION for four (4) years (hereinafter "disciplinary period"). The terms of discipline shall be:

1. Respondent shall keep the Board apprised of his current home and work addresses and telephone numbers. If at any time Respondent is employed by a temporary employment agency or maintains employment that requires frequent daily or weekly changes of work locations he/she must provide the Board with all scheduled places of employment in writing prior to any scheduled work time.

2. Respondent shall pay all required fees for licensing to the Board and shall renew his license prior to December 31 of each licensing year.

3. Respondent shall comply with all provisions of Chapter 338, Chapter 195, and all applicable federal and state drug laws, rules and regulations and with all federal and state criminal laws. "State" here includes the State of Missouri and all other states and territories of the United States.

4. Respondent shall make himself available for personal interviews to be conducted by a member of the Board or the Board of Pharmacy staff. Said meetings will be at the Board's discretion and may occur periodically during the disciplinary period. Respondent will be notified and given sufficient time to arrange these meetings.

5. If, after disciplinary sanctions have been imposed, the Respondent ceases to keep his Missouri license current or fails to keep the Board advised of his current place of employment and residence, such periods shall not be deemed or taken as any part of the time of discipline so imposed.

6. If, after disciplinary sanctions have been imposed, the Respondent begins employment as a pharmacist, intern pharmacist, or technician outside the state of Missouri, such periods shall not be deemed or taken as any part of the time of discipline so imposed. Respondent may petition the Board to seek a waiver for any portion of this requirement by

making such a request in written form to the Board for its consideration. No exception will be made to this requirement without prior Board approval.

7. If Respondent leaves the state of Missouri for more than 30 consecutive days, such periods shall not be included as a part of the time of discipline so imposed.

8. Respondent shall provide all current and future pharmacy and drug distributor employers and pharmacist/manager-in-charges a copy of this disciplinary order within five (5) business days of the effective date of discipline or the beginning date of each employment. If at any time Respondent is employed by a temporary employment agency he/she must provide each pharmacy and drug distributor employer and pharmacist/manager-in-charge a copy of this disciplinary order prior to or at the time of any scheduled work assignments.

9. Respondent shall provide all current and future pharmacy schools/colleges where enrolled a copy of this disciplinary order within five (5) business days of the effective date of discipline or the beginning date of each new enrollment.

10. If applicable, Respondent shall notify any employer of the employer's need to apply for and receive the necessary state (misdemeanor/felony) and federal (felony) waivers from the Bureau of Narcotics and Dangerous Drugs and the Drug Enforcement Administration in order to be employed within a facility that maintains state and federal registrations for the purpose of storing, distributing or dispensing controlled substances.

11. Respondent shall report to the Board, on a preprinted form supplied by the Board office, once every six (6) months, beginning six (6) months after this Order becomes effective, stating truthfully whether or not he has complied with all terms and conditions of his disciplinary order.

12. Respondent shall undergo anger management counseling and/or treatment with a licensed and qualified mental health professional approved by the Board. Documentation required for counselor/program approval must be submitted to the Board office and Respondent's counselor/program must receive Board approval within three (3) months after the effective date of this Order. Any unexpected or requested change in treatment program/counselor shall be submitted to the Board within ten (10) days of the change; and the program approval process must again be completed.

a. Respondent shall cause the mental health professional to submit to the Board office written documentation of his credentials and qualifications to provide treatment or counseling.

b. Respondent shall cause a written agreement/contract between the mental health professional and licensee, outlining responsibilities of each party, to be executed. Said

agreement/contract shall include a provision for sharing information concerning all aspects of therapy between facility and/or counselors and the Board of Pharmacy, and shall include a provision that any violation of the treatment agreement/contract shall be reported to the Board of Pharmacy within ten (10) days.

c. Respondent shall, within six (6) weeks of the effective date of this Order, undergo an evaluation performed by a licensed mental health professional. The evaluation shall be for any clinically significant disorder which poses any risk to the safe practice of pharmacy (including chemical dependency). Respondent shall cause the results of the evaluation to be mailed directly to the Missouri Board of Pharmacy, P.O. Box 625, Jefferson City, Missouri 65102 within ten (10) days after the evaluation has been completed. Each evaluation report shall include the licensee's present state of mental health; a description of the tests performed and the results; discussion of relevant clinical interview findings/interpretations; specification of DSM IV diagnosis/es; appropriate treatment recommendations/plan; the beginning date of treatment; and an assessment for future prospects for recovery. If there is no diagnosis requiring treatment, this should be reported in the evaluation. Respondent shall follow any treatment recommendations made by that professional.

d. Respondent shall provide a copy of this Order to all mental health professionals involved in Respondent's treatment, and all medical professionals issuing/renewing a prescription to Respondent. Said disclosure shall be made before the evaluation required in Paragraph C, before the issuance of any new prescriptions and, in the case of renewed/refilled prescriptions, disclosure shall be made within ten (10) days of the effective date of this Order. Respondent shall simultaneously report to the Board office that said disclosure has taken place.

e. Respondent shall execute a limited medical release effective for the entire disciplinary period authorizing any mental health professional or medical professional to release records and/or communicate with the Board, or its representative, regarding Respondent's treatment and/or counseling. Respondent shall not take any action to cancel this release. Respondent shall take all steps necessary to continue the release in effect and shall provide a new release when requested.

f. Respondent shall cause a report of ongoing treatment evaluation to be submitted from the Board-approved mental health professional to the Board office once every 6 months, beginning 6 months after this Order becomes effective. The report shall be completed by the treating professional within four weeks prior to the date it is due. The report shall include an evaluation of Respondent's current progress and status related to the treatment recommendations/plan, and Respondent's current prognosis as well as revised treatment recommendations/plan.

g. If the treatment of Respondent is successfully completed at any time during the disciplinary period, Respondent shall cause the Board-approved mental health professional to submit a report of final evaluation/summary.

13. Respondent's failure to comply with any condition of discipline set forth herein constitutes a violation of this disciplinary Order.

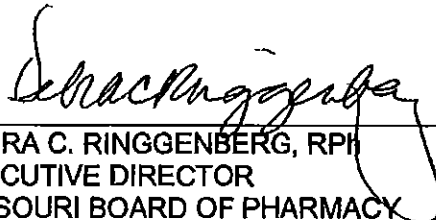
14. The parties to this Order understand that the Board of Pharmacy will maintain this Order as an open record of the Board as provided in Chapters 338, 610, 620, RSMo.

In the event the Board determines that Respondent has violated any term or condition of this Order, the Board may, in its discretion, after an evidentiary hearing, vacate and set aside the discipline imposed herein and may suspend, revoke, or otherwise lawfully discipline Respondent's intern pharmacist license.

No order shall be entered by the Board pursuant to the preceding paragraph of this Order without notice and an opportunity for a hearing before the Board in accordance with provisions of Chapter 536, RSMo.

If the Board determines that Respondent has violated a term or condition of this Order, which violation would be actionable in a proceeding before the Administrative Hearing Commission or the Circuit Court, the Board may elect to pursue any lawful remedies or procedures afforded it and is not bound by this Order in its determination of appropriate legal actions concerning that violation.

SO ORDERED EFFECTIVE the 1st day of February, 2008


DEBRA C. RINGGENBERG, RPH
EXECUTIVE DIRECTOR
MISSOURI BOARD OF PHARMACY